

The Hon. Robert S. Lasnik

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff,
v.
LUIS FRANCISCO GARAY SOTO
Defendant.

NO. CR23-137-RSL

PRELIMINARY ORDER OF FORFEITURE

THIS MATTER comes before the Court on the United States' Motion for Entry of a Preliminary Order of Forfeiture (the "Motion") seeking to forfeit, to the United States, Defendant Luis Francisco Garay Soto's interest in the following property (the "Subject Property"):

1. A Ruger P-85 9mm pistol, bearing serial number 302-16697, and any associated ammunition (the “Ruger Pistol”); and
2. A privately made AR style .223 caliber rifle, and any associated ammunition.

The Court, having reviewed the United States' Motion, as well as the other papers and pleadings filed in this matter, hereby FINDS that a Preliminary Order of Forfeiture is appropriate because:

- 1 • The Subject Property is forfeitable pursuant to 21 U.S.C. § 853(a) as it was
2 proceeds of, or facilitated Defendant's commission of, *Possession of*
3 *Controlled Substances with Intent to Distribute*, the lesser-included offense
4 to the one charged in Count 1 of the Indictment.
- 5 • The above-identified Ruger Pistol and any associated ammunition are
6 forfeitable pursuant to 18 U.S.C. § 924(d)(1), by way of 28 U.S.C.
7 § 2461(c), as it was involved in Defendant's commission of *Possession of a*
8 *Firearm in Furtherance of Drug Trafficking Crime* (Count 2 of the
9 Indictment).
- 10 • In the Plea Agreement he entered on May 23, 2024, Defendant agreed to
11 forfeit his interest in the Subject Property pursuant to 21 U.S.C. § 853(a).
12 Dkt. No. 32, ¶ 12.
- 13 • In his Plea Agreement, Defendant also agreed to forfeit his interest in the
14 above-identified Ruger Pistol and any associated ammunition pursuant to
15 18 U.S.C. § 924(d)(1), by way of 28 U.S.C. § 2461(c). *Id.*

16
17 NOW, THEREFORE, THE COURT ORDERS:

- 18 1) Pursuant to 21 U.S.C. § 853(a), and pursuant to his Plea Agreement,
19 Defendant Luis Francisco Garay Soto's interest in the Subject Property is fully and
20 finally forfeited, in its entirety, to the United States;
- 21 2) Pursuant to 18 U.S.C. § 924(d)(1), by way of 28 U.S.C. § 2461(c), and
22 pursuant to his Plea Agreement, Defendant's interest in the above-identified Ruger Pistol
23 and any associated ammunition is fully and finally forfeited, in its entirety, to the
24 United States;
- 25 3) Pursuant to Fed. R. Crim. P. 32.2(b)(4)(A)-(B), this Preliminary Order will
26 be final as to Defendant at the time he is sentenced, it will be made part of the sentence,
27 and it will be included in the judgment;

1 4) The United States Department of Justice, the Drug Enforcement
 2 Administration, and/or their authorized agents or representatives, shall maintain the
 3 Subject Property in their custody and control until further order of this Court;

4 5) Pursuant to Fed. R. Crim. P. 32.2(b)(6) and 21 U.S.C. § 853(n), the
 5 United States shall publish notice of this Preliminary Order and its intent to dispose of the
 6 Subject Property as permitted by governing law. The notice shall be posted on an official
 7 government website – currently www.forfeiture.gov – for at least thirty (30) days. For
 8 any person known to have alleged an interest in the property, the United States shall, to
 9 the extent possible, provide direct written notice to that person. The notice shall state that
 10 any person, other than the Defendant, who has or claims a legal interest in the property
 11 must file a petition with the Court within sixty (60) days of the first day of publication of
 12 the notice (which is thirty (30) days from the last day of publication), or within thirty (30)
 13 days of receipt of direct written notice, whichever is earlier. The notice shall advise all
 14 interested persons that the petition:

- 15 a. shall be for a hearing to adjudicate the validity of the petitioner's
 alleged interest in the Subject Property;
- 16 b. shall be signed by the petitioner under penalty of perjury; and,
- 17 c. shall set forth the nature and extent of the petitioner's right, title, or
 interest in the Subject Property, as well as any facts supporting the
 petitioner's claim and the specific relief sought.

21 6) If no third-party petition is filed within the allowable time period, the
 22 United States shall have clear title to the Subject Property, and this Preliminary Order
 23 shall become the Final Order of Forfeiture as provided by Fed. R. Crim. P. 32.2(c)(2);

24 7) If a third-party petition is filed, upon a showing that discovery is necessary
 25 to resolve factual issues it presents, discovery may be conducted in accordance with the
 26 Federal Rules of Civil Procedure before any hearing on the petition is held. Following
 27 adjudication of any third-party petitions, the Court will enter a Final Order of Forfeiture,

